

# **PUBLIC PERCEPTION INDEX AND LINKS FOR ACTION PROJECT**

## **JUDICIARY HANDBOOK**

### **ICJ (K) MODEL CODE OF CONDUCT FOR THE JUDICIARY**

#### **Forward**

This handbook is a publication aimed at supporting effective interest group demand for judicial reform. It is part of a series of four code of conduct handbooks aimed at promoting judicial independence, accountability and effectiveness.

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The following rules are intended to provide a draft of internationally agreed standards for ethical conduct of judicial officers. They are designed to provide guidance to judicial officers and to afford a structure for regulating judicial conduct.

The Code of Judicial Conduct is not intended as an exhaustive guide for the conduct of judges. They should also be governed in their judicial and personal conduct by general ethical standards. The Code is intended, however, to state basic standards that should govern the conduct of all judges and to provide guidance to assist judges in establishing and maintaining high standards of judicial and personal conduct.

This code of conduct aims to reinforce the general principles relating to the dispensation of justice, which are highlight below.

- Judicial independence encompasses both the personal independence of an individual magistrate in reaching a decision in the courtroom, and the autonomy and collective independence of the judiciary from other branches of government.
- Judicial accountability and efficiency.
- Community trust and confidence.
- Professionalism.
- Impartiality - All persons coming to the court are entitled to fair and equitable treatment, regardless of their personal circumstances or legal situation.
- Personal integrity – Demonstrate the highest standards of personal integrity, honesty and truthfulness in all our professional and personal dealings, avoiding the misuse of court time, equipment, supplies, or facilities for personal use.
- Uphold the dignity of the court and promote respect for the courts duty to administer justice independently impartially according to the law.

The publication is intended to lead debate and discussion on the professionalism of judges.

### **MODEL CODE OF CONDUCT.**

1. A judge shall conduct himself or herself in a way that is consistent with the dignity of the judicial office.<sup>1</sup>
2. A judge shall refrain from conduct such as membership of groups or organisations or participation in public discussion, which, in the mind of a reasonable, fair-minded and informed person, might undermine confidence in the judge's impartiality with respect to any issue that may come before the courts.<sup>2</sup>
3. A judge shall avoid close personal association with individual members of the legal profession, particularly those who practise in the judge's court, where such association might reasonably give rise to the suspicion or appearance of favouritism or partiality.<sup>3</sup>
4. A judge shall refrain from:
  - Membership of political parties;
  - Political fund-raising;
  - Attendance at political gatherings and political fund-raising events;
  - Contributing to political parties or campaigns; and
  - Taking part publicly in controversial discussions of a partisan political character<sup>4</sup>.
5. A judge shall not be a member of, nor associated with, any society or organisation that practises unjust discrimination on the basis of any irrelevant ground<sup>5</sup>.
6. A judge shall not allow his or her family, social or other relationships to improperly influence his or her judicial conduct and judgment as a judge<sup>6</sup>.

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<sup>1</sup> cf Bangladesh, India, Philippines.

<sup>2</sup> cf ABA Code, Canada, European Charter, South Africa.

<sup>3</sup> cf Bangladesh, India, Kenya.

<sup>4</sup> cf Canada, Bangladesh, India, Pakistan, Philippines, Uganda, Virginia, Zambia.

<sup>5</sup> cf ABA Code, Bangladesh, Canada, Iowa, Nigeria, South Africa, Uganda, Virginia, USA.

7. A judge shall not serve as the executor, administrator, trustee, guardian or other fiduciary, except for the estate, trust or person connected with a member of his or her family and then only if such service will not interfere with the proper performance of his or her judicial duties<sup>7</sup>.
8. Save for holding and managing appropriate personal or family investments, a judge shall refrain from being engaged in other financial or business dealings as these may interfere with the proper performance of judicial duties or reflect adversely on the judge's impartiality<sup>8</sup>.
9. A judge shall not practise law whilst the holder of judicial office<sup>9</sup>.
10. A judge and members of the judge's family, shall neither ask for, nor accept, any gift, bequest, loan or favour in relation to anything done or to be done or omitted to be done by the judge in connection with the performance of judicial duties<sup>10</sup>.
11. A judge may receive compensation and reimbursement of expenses for the extra-judicial activities permitted by this Code, if such payments do not give the appearance of influencing the judge in the performance of judicial duties or otherwise give the appearance of impropriety, subject to the following restrictions:
  - (a) Such compensation and reimbursement shall not exceed a reasonable amount nor shall it exceed what a person who is not a judge would receive for the same activities; and
  - (b) Reimbursement shall be limited to the actual cost of travel and accommodation reasonably incurred by the judge and, where appropriate to the occasion, by the judge's family. Any payment in excess of such an amount is compensation<sup>11</sup>.
12. A judge shall make such financial disclosures and pay all such taxes as are required by Law<sup>12</sup>.

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<sup>6</sup> cf ABA Code, Iowa, Tanzania, Texas, Virginia, Washington.

<sup>7</sup> cf ABA Code, Iowa, Kenya, Nigeria, Philippines, Tanzania, Virginia, Zambia.

<sup>8</sup> cf ABA Code, Bangladesh, Iowa, Nigeria, Philippines, Uganda, Virginia, Zambia.

<sup>9</sup> cf ABA Code, Iowa, Kenya, Malaysia, Nigeria, Philippines, South Africa, Tanzania, Uganda, Virginia, Zambia.

<sup>10</sup> cf Bangladesh, India, Iowa, Kenya, Nigeria, Pakistan, Philippines, Uganda, Virginia, Zambia.

<sup>11</sup> cf ABA Code, Iowa, Virginia, USA, Zambia.

<sup>12</sup> cf ABA Code, Bangladesh, Philippines.

13. A judge shall exercise the judicial function independently on the basis of the judge's assessment of the facts and in accordance with a conscientious understanding of the law, free of any extraneous influences, inducements, pressures, threats or interference, direct or indirect, from any quarter or for any reason<sup>13</sup>.
14. A judge shall perform his or her judicial duties without favour, bias or prejudice<sup>14</sup>.
15. A judge shall strive to be aware of, and to understand, diversity in society and differences arising from various sources, including but not limited to race, colour, sex, religion, national origin, caste, disability, age, marital status, sexual orientation, social and economic status and other like causes<sup>15</sup>. A judge shall not, in the performance of judicial duties, by words or conduct, manifest bias or prejudice towards any person or group on irrelevant grounds<sup>16</sup>.
16. A judge shall exhibit and promote high standards of judicial conduct in order to reinforce public confidence, which is fundamental to the maintenance of Judicial independence<sup>17</sup>.
17. A judge shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness<sup>18</sup>.
18. A judge shall ensure that his or her conduct is above reproach in the view of reasonable, fair-minded and informed persons<sup>19</sup>.
19. A judge shall not knowingly permit court staff or others subject to the judge's influence, direction or control to differentiate between persons concerned, in a matter, which is before the judge, on any irrelevant ground<sup>20</sup>.

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<sup>13</sup> cf Beijing Principles, Singhvi Declaration, Siracusa Principles, Solomon Islands, South Africa, UN Basic Principles.

<sup>14</sup> cf ABA Code.

<sup>15</sup> cf Canada.

<sup>16</sup> cf ABA Code, Iowa, South Africa, Virginia, Zambia.

<sup>17</sup> cf Canada.

<sup>18</sup> cf ABA Code, Bangladesh, Canada, Kenya, Nigeria, Philippines, South Africa, Uganda.

<sup>19</sup> cf Canada, Philippines, Uganda.

<sup>20</sup> cf ABA Code, Iowa, Virginia, Zambia.

20. A judge shall not knowingly, while a proceeding is before, or could come before, the judge, make any comment that might reasonably be expected to affect the outcome of such proceeding or impair the manifest fairness of the process. Nor shall the judge make any comment in public or otherwise that might affect the fair trial of any person or issue<sup>21</sup>.
21. A judge shall disqualify himself or herself from participating in any proceedings in which the judge is unable to decide the matter impartially or in which a reasonable, fair-minded and informed person might believe that the judge is unable to decide the matter impartially<sup>22</sup>.
22. Without authority of law and notice to, and consent of, the parties and an opportunity to respond, a judge shall not, in the absence of the other parties to the proceedings, communicate with any party to proceedings in the judge's court concerning such proceedings<sup>23</sup>.
23. A judge shall devote his or her professional activity to judicial duties. Such duties are broadly defined and include not only the performance of judicial duties in court and the making of decisions but other tasks relevant to the court's operations or to the judicial office<sup>24</sup>.
24. A judge shall keep himself or herself informed about relevant developments of International law, including international conventions and other instruments establishing Human rights norms and, within any applicable limits of constitutional or other law, shall conform to such norms as far as is feasible<sup>25</sup>.

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<sup>21</sup> cf ABA Code, Bangladesh, Iowa, Nigeria, Philippines, South Africa, Tanzania, Uganda, Virginia, Zambia.

<sup>22</sup> cf ABA Code, Bangladesh, Canada.

<sup>23</sup> cf ABA Code, Nigeria, Philippines, Tanzania, Virginia, Zambia.

<sup>24</sup> cf Canada.

<sup>25</sup> cf Bangalore Principles, Beijing Principles, European Charter, Iowa, Nigeria, Tanzania, Virginia.

This code has been drafted with reference to several existing codes and international instruments such as:

- The Bangalore draft code of conduct.
- Restatement of Values of Judicial Life adopted by the Chief Justices Conference of India, 1999.
- Code of Conduct for the Judges of the Supreme Court of Bangladesh, prescribed by the Supreme Judicial Council in the exercise of power under Article 96(4)(a) of the Constitution of the People's Republic of Bangladesh, May 2000.
- The Judges' Code of Ethics of Malaysia, prescribed by the Yang di-Pertuan Agong on the recommendation of the Chief Justice, the President of the Court of Appeal and the Chief Judges of the High Courts, in the exercise of powers conferred by Article 125(3A) of the Federal Constitution of Malaysia, 1994.
- The Code of Judicial Conduct of the Philippines, September 1989.
- The Canons of Judicial Ethics of the Philippines, proposed by the Philippines Bar Association, approved by the Judges of First Instance of Manila, and adopted for the guidance of and observance by the judges under the administrative supervision of the Supreme Court, including municipal judges and city judges.
- Code of Conduct to be observed by Judges of the Supreme Court and of the High Courts of Pakistan.
- Yandina Statement: Principles of Independence of the Judiciary in Solomon Islands, November 2000.
- Code of Conduct for Judicial Officers of the Federal Republic of Nigeria.
- Code of Conduct for Judicial Officers of Tanzania, adopted by the Judges and Magistrates Conference, 1984.
- Code of Conduct for Judicial Officers of Kenya, July 1999.
- Code of Conduct for Judges, Magistrates and Other Judicial Officers of Uganda, adopted by the Judges of the Supreme Court and the High Court, July 1989.
- The Judicial (Code of Conduct) Act, enacted by the Parliament of Zambia, December 1999.
- Guidelines for Judges of South Africa, issued by the Chief Justice, the President of the Constitutional Court, and the Presidents of High Courts, the Labour Appeal Court, and the Land Claims Court, March 2000.
- The European Charter on the Statute for Judges, Council of Europe, July 1998.
- Ethical Principles for Judges, drafted with the cooperation of the Canadian Judges Conference and endorsed by the Canadian Judicial Council, 1998.
- The Code of Judicial Conduct adopted by the House of Delegates of the American Bar Association, August 1972.

- The Code of Conduct of the Judicial Conference of the United States.
- The Canons of Judicial Conduct for the Commonwealth of Virginia, adopted and promulgated by the Supreme Court of Virginia, 1998.
- The Iowa Code of Judicial Conduct.
- Draft Principles on the Independence of the Judiciary ("Syracusa Principles"), prepared by a committee of experts convened by the International Association of Penal Law, the International Commission of Jurists, and the Centre for the Independence of Judges and Lawyers, 1981.
- Minimum Standards of Judicial Independence adopted by the International Bar Association, 1982.
- United Nations Basic Principles on the Independence of the Judiciary, endorsed by the UN General Assembly, 1985.
- Draft Universal Declaration on the Independence of Justice ("Singhvi Declaration") prepared by Mr L.V. Singhvi, UN Special Rapporteur on the Study on the Independence of the Judiciary, 1989.
- The Beijing Statement of Principles of the Independence of the Judiciary in the Lawasia Region, adopted by the 6<sup>th</sup> Conference of Chief Justices, August 1997.
- The Latimer House Guidelines for the Commonwealth on good practice governing relations between the Executive, Parliament and the Judiciary in the promotion of good governance, the rule of law and human rights to ensure the effective implementation of the Harare Principles, 1998.
- The Policy Framework for Preventing and Eliminating Corruption and Ensuring the Impartiality of the Judicial System, adopted by the expert group convened by the Centre for the Independence of Judges and Lawyers, February 2000.